IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

C.W.P. No. 18874 of 2006
Date of Decision: Nov. 30,2006

Sukhpal Kaur ..... Petitioner

Versus

State of Haryana and others ..... Respondents

Coram: Hon'ble Mr. Justice Ashutosh Mohunta
Hon'ble Mrs. Justice Nirmal Yadav

Present: Mr. O.P.Goyal, Sr. Advocate with
Ms. Mamta Bhatti, Advocate
for the petitioner.

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ASHUTOSH MOHUNTA, J. (Oral)

The petitioner has prayed for quashing of the notification dated 15.12.2000 issued under Section 4 of the Land Acquisition Act (for short `the Act') (Annexure P1) and the notification dated 6.12.2001 issued under Section 6 of the Act and has also prayed that the land of the petitioner be released from acquisition.

The State of Haryana had issued notification under Section 4 of the Act (Annexure P-1) by which lands comprised in the revenue estates of villages Nanhera, Shahpur and Ghastipur in tehsil & district Ambala were sought to be acquired for residential, commercial and industrial purposes in Sectors 10/11 and 12 Part at Ambala Cantt. Declaration under Section 6 of the Act was issued on 6.12.2001. The petitioner along with 24 other persons challenged the aforementioned notification by filing Civil Writ Petition No.286 of 2002 in which counsel for the State on instructions from the department gave a statement that land belonging to 20 writ-petitioners is

being released from acquisition. The land of the petitioner who was petitioner No.16 in that writ petition and four others had not been released from acquisition. The petitioners were, however, given liberty to file a fresh petition on the same cause of action. Accordingly, the petitioner filed C.W.P. No. 18418 of 2003 which was withdrawn with permission to file a fresh writ petition. Now, the present writ petition has been filed.

It has been contended by Mr. Goyal, counsel for the petitioner, that the petitioner has raised some construction over her land and, therefore, as constructed area in the vicinity of the land of the petitioner has been released from acquisition, therefore, the petitioner is also entitled to have her land released. It has next been contended that the objections under Section 5-A of the Act filed by the petitioner have not been decided in accordance with law.

A perusal of the order dated 11.12.2003 passed in C.W.P. No. 286 of 2002 shows that lands of 20 persons were released from acquisition whereas lands of 5 persons including the petitioner were not released. The lands of 20 persons were released from acquisition as there was substantial construction prior to the issuance of notification under Section 4 of the Act.

From the above, it is clear that the petitioner did not have any worthwhile construction over the land which has been acquired and, therefore, her land was not released from acquisition. The petitioner has referred to photograph attached, but a perusal of the photograph does not show that any dwelling unit exists on the land belonging to the petitioner. In fact, the adjoining house to the acquired land which belongs to the father-in-law of the petitioner has been released from acquisition.

The next submission of the counsel for the petitioner that the objections under Section 5-A of the Act were not disposed of in accordance with law is also without any force as it is only after considering of the objections of all the persons that lands of various persons were released from acquisition.

Apart from the above, the impugned notification under Section 4 of the Act was issued on 15.12.2000 i.e. almost six years ago. Award for the acquired land has also been passed by the Land Acquisition Collector. The land now fully vests in the State Government. No illegality has been

pointed out in the issuance of notifications under Sections 4 and 6 of the Act.

In view of the above, we find no merit in the present writ petition and the same is dismissed.

(ASHUTOSH MOHUNTA)
JUDGE

30.11.2006 **(NIRMAL YADAV)**
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